

REMARKS

This Application has been carefully reviewed in light of the Final Action mailed November 17, 2005. In order to advance prosecution of the present Application, Claims 1, 11, 16, 24, and 29 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1-31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Farris, et al. in view of Griffiths. Independent Claims 1, 11, 16, 24, and 29 recite in general that a network location is assigned to the network user upon establishment of the communication session. By contrast, neither the Farris, et al. or Griffiths patents discloses a capability to assign a network location to a user for a communication session as required in the claimed invention. Support for the above recitation can be found at page 7, lines 19-32, of Applicant's specification. Therefore, Applicant respectfully submits that Claims 1-31 are patentably distinct from the proposed Farris, et al. - Griffiths combination.

This Response to Examiner's Final Action is necessary to address the new grounds of rejection and newly cited art raised and identified by the Examiner. This Response to Examiner's Final Action could not have been presented earlier as the Examiner has only now raised the new grounds of rejection and identified the newly cited art in support thereof.

Applicant respectfully requests withdrawal of the finality of the present Office Action. "Before final rejection is in order a clear issue should be developed between the examiner and applicant." M.P.E.P. §706.07. A clear issue has not been developed between the Examiner and Applicant with respect to the Griffiths patent as the Examiner has only now used the Griffiths patent to support a rejection

of these claims. According to M.P.E.P. §706.07, hasty and ill-considered final rejections are not sanctioned. "The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application." M.P.E.P. §706.07. "To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection." M.P.E.P. §706.07.

Applicant responded to the first Office Action of June 2, 2005 and overcame the Farris, et al. patent used by the Examiner to reject these claims. Now the Examiner comes back with the Griffiths patent in combination with the Farris, et al. patent which the Examiner did not use as a basis for any rejection of these claims in the previous Office Action. The Examiner now uses the Griffiths patent in the same manner as the Farris, et al. patent was used in the previous Office Action. Thus, the Examiner has not followed the M.P.E.P. where it states that "[s]witching from . . . one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance or a final rejection." Amendments to the claims in response to the previous Office Action did not substantially change the subject matter of the claims to

force the Examiner to now use the Griffiths patent in support of the claim rejections.

As a result, Applicant has not been given the cooperation of the Examiner as required and has been denied an opportunity to fully address the Griffiths patent and associated new grounds of rejection. By not providing Applicant the capability to fully respond to the Griffiths patent without the assurance that the response would be considered and entered, the Examiner has prematurely cut off prosecution of the present Application. Applicant has not been given a full and fair hearing to which it is entitled and a clear issue has not been developed as required. Therefore, Applicant respectfully submits that the final rejection is premature and that the finality of the present Office Action be withdrawn.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicants

A handwritten signature in black ink, appearing to read 'Charles S. Fish', is written over the printed name.

Charles S. Fish

Reg. No. 35,870

January 17, 2006

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